

EXPRESS MAIL No.: EL 915 670 298 US

Deposited: November 1, 2001

I hereby certify that this correspondence is being deposited with the United States Postal Service Express mail under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Washington, DC 20231

*Ruth Montalvo* / **Ruth Montalvo** Date: **11/01/01**

In the event that this paper is late filed and a necessary Petition for an Extension of Time is not concurrently filed herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this paper, to Deposit Account No. 50-1529.

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

EXAMINER: UNASSIGNED ATTY DOCKET #: 500582.20016

APPLICANTS: David R. SMITH, et al. GROUP ART UNIT: UNASSIGNED

SERIAL NO.: 09/729,562

FILING DATE: December 4, 2000

TITLE: SYSTEM AND METHOD FOR SINGLE-ENDED LINE ANALYSIS  
FOR QUALIFICATION AND MAPPING

Box DAC  
Commissioner for Patents  
Washington, D.C. 20231

**RECEIVED**

DEC 05 2001

**OFFICE OF PETITIONS**

**REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR § 1.47(a)**

Sir:

Applicants (hereinafter "Petitioners") respectfully request reconsideration of the Decision mailed on August 2, 2001 in the above-identified application dismissing the Petition Under 37 CFR 1.47(a) filed on June 29, 2001.

In the Decision of August 2, 2001, Examiner Hicks asserts that Petitioners have not demonstrated with documented evidence that Duane Eareckson refused to join in the above-identified application after having been presented with the application papers. The Examiner specifically points out that there is no indication in the present case whether joint inventor Duane Eareckson was presented with a copy of the complete application papers.

The Examiner, though, indicates in the Decision of August 2, 2001 that to establish a finding of refusal by conduct, Petitioners should mail a copy of the complete application papers and declaration to Duane Eareckson at his last known address along with a cover letter with instructions setting forth a deadline to return the executed Declaration or a statement that no response will constitute a refusal. In addition, the Examiner indicates that the complete application papers and cover letter should be sent with a return receipt request. The Examiner also indicates that proof of the pertinent facts establishing Duane Eareckson's refusal should be made by someone with first-hand knowledge of the facts and should include documentary evidence.

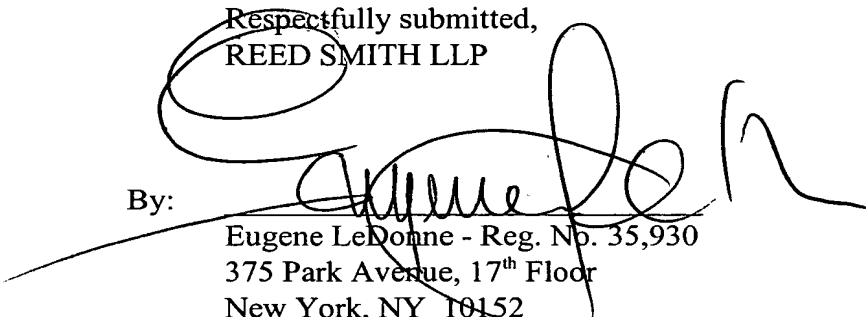
In response to the Examiner's decision, Petitioners have undertake acts to establish Duane Eareckson's refusal to sign the declaration. In particular, as shown in the Declaration of Eugene LeDonne filed herewith, on August 17, 2001 a Federal Express Package was sent to Duane Eareckson which included (1) a complete copy of the application papers, (2) a declaration, (3) an assignment document, (4) a prepaid Federal Express return envelope and (5) a cover letter including instructions setting forth a deadline of September 20, 2001 to execute and return the declaration to Petitioners' counsel and a statement that if Petitioners' counsel do not receive the executed declaration by September 20, 2001, such conduct would constitute a refusal. See paragraphs 3 and 4. The Declaration of Eugene LeDonne also includes as Exhibit B a copy of a letter from Federal Express showing that the Federal Express package was delivered to Duane Eareckson's last known address on August 20, 2001 at 9:47 a.m. See paragraph 5. Further, the Declaration of Eugene LeDonne establishes that Duane Eareckson did not return an executed declaration to Petitioners' counsel by the September 20, 2001 deadline set forth in the cover letter to Duane Eareckson and still has not returned an executed declaration. See paragraph 6.

On view of the foregoing, Petitioners have clearly shown that Duane Eareckson has refused to sign the declaration after having been presented with the complete application papers. As such, Petitioners respectfully request that the subject action be accorded status under 37 CFR § 1.47 by the Special Program Law Office and subsequently, the subject application be assigned to an Examiner and acted on by the Examiner.

Respectfully submitted,  
REED SMITH LLP

November 1, 2001

By:



Eugene LeDonne - Reg. No. 35,930  
375 Park Avenue, 17<sup>th</sup> Floor  
New York, NY 10152  
(P) 212-521-5402  
(F) 212-521-5450  
Attorney for Applicants